Nine Key Elements of an Effective State Program

EPA and the State lead nonpoint source agencies agree that the following nine key elements characterize an effective and dynamic State nonpoint source program. Each key element appears in bold type and is then followed by explanatory text that elaborates on the key element. The explanatory text provides information on means by which the States may choose to implement the key element.

All States will review and, as appropriate, revise their nonpoint source management programs in a manner that reflects these nine key elements. States will then submit their upgraded programs to EPA for approval. States that successfully incorporate these nine key elements into their programs and have a proven track record of effective implementation will be recognized Nonpoint Source Enhanced Benefits States and be provided maximum flexibility in implementing their programs and other benefits.

1. The State program contains explicit short- and long-term goals, objectives and strategies to protect surface and ground water.

The State's long-term goals are consistent with the national program vision that all States implement dynamic and effective nonpoint source programs designed to achieve and maintain beneficial uses of water. The shorter-term objectives consist of activities, with milestones, that are designed to demonstrate reasonable further progress that leads to accomplishment of the long-term goals as expeditiously as possible. The State program includes objectives that address nonpoint sources of ground-water pollution. The objectives list both implementation steps and the results to be achieved (e.g., water quality improvements or load reductions).

The State program includes long-term goals; shorter-term (e.g. 3-5-year) objectives that are periodically updated based on progress; strategies to achieve progress towards achieving the goals, objectives; indicators to measure progress; and annual work plans to implement the strategies.

2. The State strengthens its working partnerships and linkages to appropriate State, interstate, Tribal, regional, and local entities (including conservation districts), private sector groups, citizens groups, and Federal agencies.

The State uses a variety of formal and informal mechanisms to form and sustain these partnerships. Examples include memoranda of agreement, letters of support, cooperative projects, sharing and combining of funds, and meetings to share information and ideas.

The State nonpoint source lead agency works collaboratively with other key State and local nonpoint source entities in the development and implementation of the §319 management program, and actively involves them in decision making. Interagency collaborative teams, nonpoint source task forces, and representative advisory groups have all proven effective for accomplishing these linkages, especially where they meet on a regular basis and are managed in a collaborative and inclusive manner.

Further, the State seeks public involvement and comment on significant proposed program changes and engages in public education activities to promote public awareness of nonpoint source pollution and its solutions. As appropriate, representatives are involved from local, regional, State, interstate, Tribal and Federal agencies, and public interest groups, industries, academic institutions, private landowners and producers, concerned citizens and others. This involvement helps ensure that environmental objectives are well integrated with those for economic stability and other social and cultural goals.

3. The State uses a balanced approach that emphasizes both State-wide nonpoint source programs and on-the-ground management of individual watersheds where waters are impaired or threatened.

The State nonpoint source management program emphasizes a watershed management approach and is well integrated with other important programs to protect and restore water quality. These include point source, ground water, drinking water, clean lakes, wetlands protection; conservation, and pesticide

management programs; forestry programs; and other natural resource and environmental management programs.

Each State has the flexibility to design its nonpoint source management program in a manner that is best suited to attain and maintain beneficial uses of water. On-the-ground implementation of practices and programs is the best means of reducing and preventing pollution from nonpoint sources, but States may achieve this on-the-ground implementation by a combination of watershed approaches and State-wide programs. Similarly, as described more fully in key element 5 below, the State may use any combination of water-quality or technology-based approaches it deems appropriate to make progress towards attaining and maintaining beneficial uses of water.

4. The State program abates known water quality impairments from nonpoint source pollution and prevents significant threats to water quality from present and future nonpoint source activities.

The program is designed to remedy waters that the State has identified as impaired by nonpoint source pollution. Further, the program is designed to prevent new water quality problems from present and reasonably foreseeable nonpoint source activities, especially in waters which currently meet water quality standards.

While it may take years to remedy waters that are already impaired, it is also important for States to take appropriate steps expeditiously to protect clean waters from reasonably foreseeable degradation. State programs should place a priority on protecting waters from future nonpoint source pollution as soon as possible (generally within 5 years).

5. The State program identifies waters and their watersheds impaired by nonpoint source pollution and identify important unimpaired waters that are threatened or otherwise at risk. Further, the State establishes a process to progressively address these identified waters by conducting more detailed watershed assessments and developing watershed implementation plans, and then by implementing the plans.

The State identifies waters impaired by nonpoint source pollution based on currently available information (e.g., in reports under sections 305(b), 303(d) etc.), and revises its list periodically as more up-to-date assessment information becomes available. The State also identifies important unimpaired waters that are threatened or otherwise at risk from nonpoint source pollution.

In addition the State identifies the primary categories and subcategories causing the water quality impairments, threats, and risks. At 5-year intervals, the State updates the identification of waters and their watersheds impaired or threatened by nonpoint source pollution preferably as part of a single comprehensive State water quality assessment which integrates reports required by sections 305(b) and 303(d). The factors used by the State to progressively address its waters may include a variety of relevant environmental and administrative considerations, including, for example:

- Human health;
- Ecosystem health including ecological risk;
- The beneficial uses of the water;
- Value of the watershed or ground-water area to the public;
- Vulnerability of the surface or ground water to additional environmental degradation;
- Likelihood of achieving demonstrable environmental results;
- Implementability;
- Extent of alliances with other Federal agencies and States to coordinate resources and actions; and
- Readiness to proceed.

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The State links its prioritization and implementation strategy to other programs and efforts as appropriate. Examples include total maximum daily loads, clean lakes programs, comprehensive ground-water protection programs, source water protection programs, wetlands protection programs, ambient monitoring programs, and pesticides management programs. Related programs administered by agricultural, forestry, highway, and other agencies should also be linked, for example, USDA's Water Quality Initiative, PL-534 and PL-566 Watershed Projects. In establishing priorities for ground-water activities, the State considers wellhead protection areas, ground-water recharge areas, and zones of significant ground water/surface water interaction.

6. The State reviews, upgrades, and implements all program components required by section 319(b) of the Clean Water Act, and establishes flexible, targeted, and iterative approaches to achieve and maintain beneficial uses of water as expeditiously as practicable.

The State programs include:

- A mix of water quality-based and/or technology-based programs designed to achieve and maintain beneficial uses of water; and
- A mix of regulatory, non-regulatory, financial and technical assistance as needed to achieve and maintain beneficial uses of water as expeditiously as practicable.

Section 319(b) specifies the minimum contents of State nonpoint source management programs. These include:

a) An identification of the measures (i.e., systems of practices) that will be used to control nonpoint sources of pollution, focusing on those measures which the State believes will be most effective in achieving and maintaining water quality standards. These measures may be individually identified or presented in manuals or compendiums, provided that they are specific and are related to the category or subcategory of nonpoint sources. They may also be identified as part of a watershed approach towards achieving water quality standards, whether locally, within a watershed, or state-wide;
b) An identification of programs to achieve implementation of the measures, including, as appropriate, non-regulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects. States should establish a flexible, targeted approach to solve their water quality problems. States have the freedom to decide the best approaches for solving the problems that they identify under key element 5 above. These approaches may include one or all of the following:

    - Watershed or water quality-based approaches aimed at meeting water quality standards directly;
    - Iterative, technology-based approaches based on best management practices or measures, applied on either a categorical or site-specific basis; or
    - An appropriate mix of these approaches.

c) Description of the processes used to coordinate and, where appropriate, integrate the various programs used to implement nonpoint source pollution controls in the State;
d) Schedule with goals, objectives, and annual milestones for implementation at the earliest practicable date: legal authorities to implement the program; available resources; and institutional relationships;
e) If the State program is changed substantially, certification by the Attorney General or designee
f) Sources of funding from Federal (other than §319), State, local, and private sources;
g) Federal land management programs, development projects and financial assistance programs (see key element 7 below); and
h) A description of the monitoring and other evaluation programs that the State will conduct to help determine short- and long-term program effectiveness.

In addition, State nonpoint source programs must incorporate existing baseline requirements established by other applicable Federal or State laws to the extent that they are relevant. In this manner, States can make sure that these coastal nonpoint source programs, and other relevant baseline programs are integrated into section 319 programs and that they are eligible for §319(h) grant funding, which is limited by §319(h)(1) to "the implementation of approved §319 programs."

All of these components should be identified by the State, included in the State nonpoint source management program and be reviewed and approved by EPA under §319 of the Clean Water Act.

7. The State identifies Federal lands and activities which are not managed consistently with State nonpoint source program objectives. Where appropriate, the State seeks EPA assistance to help resolve issues.

The State commits to reviewing and identifying those Federal land management programs, development projects and financial assistance programs that are or may be inconsistent with the State's nonpoint source management program.

As a Federal agency, EPA has a special role to play in support of State nonpoint source programs by working with other Federal agencies to enhance their understanding of the significance of nonpoint source pollution and of the need to work cooperatively with States to solve nonpoint source problems. Where appropriate, EPA will help develop memoranda of agreement among States and Federal agencies to help reduce nonpoint source pollution on Federal lands and to better address nonpoint source pollution in Federal assistance programs and development projects. In addition, where appropriate, EPA will assist in resolving particular issues that arise between the State and Federal agencies with respect to Federal consistency with the State nonpoint source management program.

8. The State manages and implements its nonpoint source program efficiently and effectively, including necessary financial management.

The State implements its program to solve its water quality problems as effectively and expeditiously as possible. Timeliness is key to accomplishing environmental objectives and demonstrating results as soon as possible. To help assure that priority water quality problems are addressed cost-effectively and in a timely manner, the State includes in its program a process for identifying the critical areas requiring treatment and protection within watersheds selected for implementation activities, and assigns the highest priority to addressing those areas.

The State employs appropriate programmatic and financial systems that ensure that section 319 dollars are used consistently with its legal obligations, and generally manages all nonpoint source programmatic funds to maximize environmental benefits. The State ensures that section 319 funds complement and leverage funds available for technical and financial assistance from other Federal sources and agencies.

9. The State periodically reviews and evaluates its nonpoint source management program using environmental and functional measures of success, and revises its nonpoint source assessment and its management program at least every five years.

In its upgraded program, the State establishes appropriate measures of progress in meeting its programmatic and environmental goals and objectives identified in key element #1 above. The State also describes a monitoring/evaluation strategy and a schedule to measure success in meeting those goals and objectives. The State integrates monitoring and evaluation strategies with ongoing Federal natural resource inventories and monitoring programs.